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FEB 4 2002

In re Application of
Shi, et al
Application No. 09/378,577
Filed: August 20, 1999
Attorney Docket No. 22851.030-1

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: **OFFICE OF PETITIONS**
: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)
:

This is a decision on the petition styled, "CLAIM FOR BENEFIT OF FILING DATE OF EARLIER FILED APPLICATION", filed October 4, 2001. The petition is properly treated under 37 CFR 1.78(a)(3) as a petition to accept an unintentionally delayed claim under 35 USC 119(e) for the benefit of a prior filed provisional application.

The petition is **dismissed as moot**.

A petition for acceptance of a claim for late priority under this section is only applicable to those applications filed on or after November 29, 2000. See 57024 Federal Register/ Vol. 65, No. 183/Wednesday, September 20, 2000. Therefore, since this application was filed prior to the November 29, 2000 effective date, the petition is dismissed as involving a moot issue.

Regarding finances, a review of financial records associated with the above-identified application reveals that petitioners owe 110.00 for the Request for Continued Examination (RCE), filed October 4, 2001.¹ Petitioners are entitled to a refund of the instant petition fee. This amount will be reduced by the balance owed for the RCE. Petitioners may request a refund of \$1170.00 by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioners' request.

This application is being forwarded to Technology Center 1600 for processing of the timely amendment embodied in the petition of October 4, 2001 for consideration by the examiner of the claim under 35 USC 119(e) and 37 CFR 1.78(a)(6) for the benefit of the prior provisional application, Application No. 60/102,179.

¹ Apparently petitioners paid last fiscal year fees for the petition to revive under 37 CFR 1.137(b), the instant petition, and an RCE. This left a balance due of \$110.00.

Any inquiries concerning this decision may be directed to the undersigned at (703) 308-6712.

A handwritten signature in cursive script, reading "E. Shirene Willis".

E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy